



POLICE DEPARTMENT

May 4, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Leonard Bradley  
Tax Registry No. 941449  
23 Precinct  
Disciplinary Case No. 2013-10080

Police Officer Peter Gibbons  
Tax Registry No. 932708  
23 Precinct  
Disciplinary Case No. 2013-10081  
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The above-named members of the Department appeared before the Court on March 24, 2015, charged with the following:

Disciplinary Case No. 2013-10080

1. Said Police Officer Leonard Bradley, while assigned to the 23rd Precinct on or about August 26, 2012, at approximately 1315 hours, [REDACTED], engaged in conduct prejudicial to the good order, efficiency and discipline of the New York City Police Department, in that he searched said location, without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

Disciplinary Case No. 2013-10081

1. Said Police Officer Peter Gibbons, while assigned to the 23rd Precinct on or about August 26, 2012, at approximately 1315 hours, [REDACTED], engaged in conduct prejudicial to the good order, efficiency and discipline of the New York City Police Department, in that he searched said location, without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

The Civilian Complaint Review Board (CCRB) was represented by Andre Applewhite, Esq. Respondents were represented by John P. Tynan, Esq., Worth, Longworth & London LLP.

Respondents, through counsel, entered pleas of Not Guilty to the subject charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### RECOMMENDATION

Respondents are found Not Guilty.

### FINDINGS AND ANALYSIS

The basic facts in this case are not materially in dispute. On the day in question, the doorman of a residential building [REDACTED] reported to police that a resident of the building threatened him with a knife. Respondents were the first officers to arrive at the scene. In fact, Respondent Gibbons testified that the radio call was a 10-54 (aided case), emotionally disturbed person with a knife. The doorman stated that the resident also threatened to damage the car of one of the building workers with the knife. The doorman described it as a butcher knife and instructed Respondents that the resident returned upstairs. Respondent Bradley testified that both workers were giving information to the officers.

Respondents arrived at the resident's apartment. Other officers, including a supervisor, eventually arrived as well. The officers knocked on the door and the resident came to the door. She was placed in handcuffs.

It was undisputed that Respondents asked the resident if she took any medication. They testified that they asked this because of the situation. The call for police assistance involved an EDP with a knife. When she came to the door, she appeared to be in some kind of distress or



disorientation. The officers testified that the resident was not answering questions. She admitted at trial that she did not answer all of their questions. Respondents testified that they were aware she either was going to be arrested on the doorman's complaint or taken for a psychiatric evaluation. Part of the time that the resident testified she was waiting in her hallway apparently was for Emergency Medical Services to arrive and help make a determination. Finally, the resident had left her seven year-old son in the apartment alone and had him take a shower. The child himself later was taken to the hospital to be evaluated, a step that might have been done if abuse or neglect was suspected. See Patrol Guide § 215-03, Emergency Removals or Investigation and Reporting of Abused, Neglected, or Maltreated Children.

The resident testified that she previously had been diagnosed with bipolar disorder and histrionic personality disorder. She had suffered several "breakdowns" in the past. She had been prescribed the antipsychotic Seroquel but was not taking it at the time of the instant case. Instead, she was taking over-the-counter supplements for stress that she bought at Whole Foods Market. She admitted that Respondents asked her about medication. She replied, "You can look in the cabinet" or "Look in the cabinet," or at the very least, "It's in the cabinet." Yet she denied giving the officers permission to look for the medication.

Respondent Bradley testified that he looked in at least one cabinet in the kitchen as well as one in the bathroom. The cabinet in which he recalled looking was above the counter. Respondent Gibbons had a better recollection. He first looked in two above-the-counter kitchen cabinets, then the medicine cabinet in the bathroom, then a set of dresser drawers by the entryway. He found only nutritional supplements. All of this Respondent Gibbons did in response to querying the resident about where the medication might be, although at trial she denied telling the officers it was in the dresser. Respondent Gibbons testified that he likely would have told Respondent Bradley he could not find the medication.

The Court credits Respondents' explanation of why they were searching the resident's apartment. It was evident from her own testimony and demeanor that they were dealing with a severely mentally ill individual. While she was taking only over-the-counter supplements and not the medication prescribed for her by a psychiatrist, Respondents had no way of knowing that. In any event, the Court credits Respondents' conclusion that the resident told them they could look in her apartment – she admitted that she told them, “Look in the cabinet.” This was not a search for evidence of a crime or contraband and thus did not constitute a “search” within the meaning of the Patrol Guide. Cf. *Patrol Guide* § 212-75 p. 1, note 1, Search Warrant Applications.

Respondents admitted that in a sense they were looking for a knife as well. They had been informed that the resident used a knife to threaten the doorman. Respondent Bradley admitted that he might have been searching for the knife, but could not state in which compartments he did this. Respondent Gibbons admitted that he asked the resident where the knife was while outside the apartment. He denied, however, searching for the knife. He explained that he could not avoid looking for the knife while looking in the aforementioned compartments for the medication.

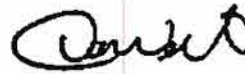
The Court credits Respondent Gibbons on this point. It would not have been possible to search for the medication without having in the back of your mind the fact that a knife had been mentioned. That did not transform a search for medication into a search for the knife. There was no evidence that Respondents searched any compartments other than those in which one might commonly place medication, like a medicine chest or an upper-level kitchen cabinet. None of the compartments were those in which people commonly leave knives, like waist-level kitchen drawers. The Court views Respondent Bradley's lack of memory as an honest inability to state

precisely where he looked, rather than an attempt to obfuscate that he was intentionally looking for the knife.

Finally, there was no evidence other than Respondents' testimony about what was searched. The resident could not see what they were doing inside her apartment. The search for the resident's medication might have seemed to take a long time because Respondents unexpectedly also found her seven-year-old son, who had been left home alone to take a shower and had to be attended to. It also might have seemed to take a long time because Respondent Gibbons found the dietary supplements from Whole Foods but no prescription medication, so he kept looking. Thus, from the resident's perspective, the search took too long, but in Respondent Gibbons's mind, he had to keep looking. Nor did the resident testify about any signs of a search once she returned home.

In sum, because the CCRB failed to prove that Respondents searched the home in question without sufficient legal authority, they are found Not Guilty.

Respectfully submitted,



David S. Weisel  
Assistant Deputy Commissioner – Trials

**APPROVED**

JUN 19 2016  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER